

REMARKS/ARGUMENTS

Claims 40-58 are pending in the present application. Claims 40-57 are allowed; claim 58 is amended. Support for amendments to claim 58 may be found in allowed claim 40. Reconsideration of the claims is respectfully requested.

I. 35 U.S.C. § 102, Anticipation, Claim 58

The Examiner has rejected claim 58 under 35 U.S.C. § 102 as being anticipated by Kelkar (U.S. Patent No. 7,058,846) (hereinafter "*Kelkar*"). The Examiner states:

In regard to claim 58

Kelkar discloses a multi-computer system for ensuring functional continuity, capable of running, on at least one computer, at least one software application, the multi-computer system comprising:

a memory comprising a set of instructions;

a processor connected to the memory, capable of executing the set of instructions to implement a method comprising:

ensuring functional continuity of the software application in a multi-computer architecture cluster, the software application being executed at a given time on one of the computers of the cluster, called a primary node, while other computers of the cluster are called secondary nodes, wherein ensuring functional continuity further comprises: replicating the software application on at least one of the secondary nodes to provide at least one clone of the application, wherein replicating the software application is of a holistic nature;

updating the at least one clone, and responsive to detecting an event affecting the primary node, switching from the software application being executed on the primary node, to the software application being executed on the at least one clone. (Abstract; Figure 3)

Office Action dated September 17, 2008, pages 2-3.

Amended claim 58 contains the same distinguishing features as those of allowed claim 40. Therefore amended claim 58 is also distinguished because claim 58 has the same distinctions between *Kelkar* and the claimed features of allowed claim 40. Accordingly amended claim 58 overcomes the rejection. Therefore, the rejection of claim 58 under 35 U.S.C. § 102 has been overcome.

II. Conclusion

The subject application is patentable over the cited references. Therefore, the subject application should now be in condition for allowance. Applicants invite the Examiner to call the undersigned at the below-listed telephone number if, in the opinion of the Examiner, a telephone conference would expedite or aid the prosecution of this application.

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Respectfully submitted,

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